

REMARKS

Applicants have corrected the drawings and the specification as suggested by the Examiner. No new matter was added.

All of the Examiners rejections of the outstanding claims (namely Claims 12 – 27) were based on a paper co-authored by one of the inventors, Dr. Nemenov (i.e. When Dr. Nemenov and Dr. Yeomans filed the present application they each represented in their declaration that they believe that they were the original inventors of the invention as claimed. In the attached declaration Dr. Nemenov confirms that he and Dr. Yeomans are the original inventors of the invention as claimed in this application. The Greffrath paper is a paper co-authored by one of the present inventors, Nemenov. This paper was a part of the provisional patent application referred to in the first sentence of the present application and on which the priority date of this application is based. The current outstanding claims have been reviewed in detail by the present inventors and they re-confirm that they are the original inventors that all outstanding claims. They also confirm that Drs. Greffrath, Scharz, Baumgarner, Vogel, Arendt-Nielsen and Treede were not inventors of the invention covered by the outstanding claims.

In response to the Examiner's 5/23/2007 Office Action, Applicant Nemenov contacted all of the above co-authors, informed them of the present patent application, sent them a copy of it along with a copy of the Greffrath paper and requested that each of the co-authors confirm that they were not co-inventors of the invention as claimed in the patent application. Copies of the e-mails and responses of the co-authors are attached as attachment A. None of the co-authors have claimed to be co-inventors of the invention as claimed in the patent application.

Dr. Baumgartner specifically confirmed that he was not a co-inventor.

Drs. Treede, Vogel, Greffrath and Schwarz responded by confirming that they were not co-inventors of the laser system described in the patent application and claimed in cancelled Claim 1. However, they stated that the use of the laser device for stimulation of C- and A delta fiber neurons in vivo and in vitro was "developed in cooperation [in the Treede Laboratory in Mainz, Germany and in the Lars Arendt-Nielsen Laboratory in Denmark]. None of these co-authors specifically claimed to be co-inventors. None of them even claimed contributed in any way to the invention. However, some of them did provide a list of publications that they attempt to infer may describe or suggest the claimed invention. Three of the publications were published after the publication and after the conception and reduction to practice of the present invention by Drs. Nemenov and Yeomans. The other five papers are described in an information disclosure statement which shows that the papers do not disclose the invention as currently claimed.

Dr. Arendt-Nielsen has refused to respond to repeated requests by Dr. Nemenov to state whether or not he believes he is a co-inventor of the invention claimed by Dr. Nemenov. The e-mail correspondence of Dr Nemenov to Dr. Arendt-Nielsen is attached to Dr.

Nemenov's declaration. Dr. Nemenov's declaration explains Dr. Arendt-Nielsen's participation in Dr. Nemenov's development of his claimed invention.

The facts as explained by Dr. Nemenov under oath clearly show that neither Dr. Arendt-Nielsen nor any of the other co-authors of the 2002 Pain paper were co-inventors of the invention claimed in the outstanding claims of the subject patent application.

Conclusion

Examiners objections regarding the drawings and the specification have been corrected. The only basis for claim rejection provided by Examiner is that the Applicants have not previously provided adequate data to remove the 2002 Pain paper as prior art. Applicants have now provided evidence showing that none of the co-authors of the paper claim to be co-inventors and that none of the co-authors collaborated with the either of the Applicants in the development of the concept of the invention. Their efforts at most amounted to some assistance in the reduction to practice of the invention. Some of the co-authors have submitted lists of publications in which they suggest that Applicant's invention may have been disclosed or suggested. Applicant has prepared and submitted an information disclosure statement showing that none of the papers published prior the publication of the 2002 Pain paper disclose or suggest the Applicants' invention as presently claimed. Applicants therefore submit that the outstanding claims should now all be allowable and respectfully request that they be allowed and the application allowed to issue as a patent.

Respectfully submitted,



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